

ESTTA Tracking number: **ESTTA602519**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058680
Party	Defendant Insta-Group US, Inc.
Correspondence Address	INSTA-GROUP US INC 3280 KURTZ STREET SAN DIEGO, CA 92110 UNITED STATES
Submission	Other Motions/Papers
Filer's Name	Brian P. Kinder
Filer's e-mail	bkinder@tklglaw.com
Signature	/BPK/
Date	05/05/2014
Attachments	2014.05.05 - Motion to Set Aside Notice of Default.pdf(25605 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of:

Reg. No. : 1,433,907

Cancellation No.: 92058680

Reg. Date : June 1, 2008

Registrant : Exponents Insta USA, Inc.

Mark : EXPONENTS


STEELCASE, INC.,

Petitioner,

v.

Insta-Group US, Inc.,

Respondent.

) I hereby certify that this correspondence is being
) filed electronically with the United States
) Trademark Trial and Appeal Board on May 5,
) 2014.
) 
) Brian P. Kinder, Esq.
) California Bar No. 212,332
)
)
)

MOTION TO SET ASIDE NOTICE OF DEFAULT

Exponents Insta USA, Inc. ("Respondent"), formerly Insta-Group US, Inc., hereby submits the following motion to set aside the Notice of Default entered on April 25, 2014 in the above proceedings. Pursuant to TBMP § 312.02, Respondent submits that good cause exists to set aside the default because: 1) the delay in filing an answer was not the result of willful conduct or gross neglect on the part of Respondent, (2) the Petitioner will not be substantially prejudiced by the delay, and (3) the Respondent a meritorious defense to the action.

Respondent submits that the delay in responding was not the result of willful conduct. To the contrary, Respondent underwent a name change and address change several months ago and

inadvertently forgot to update the U.S. Patent and Trademark Office records. As a result, Respondent did not timely receive notice of the filing of the Petition to Cancel because all such notices were sent to the Respondent's prior address. Respondent has now filed the appropriate name change and address change documentation with the U.S. Patent and Trademark Office and has also prepared and filed concurrently with this motion the proposed Answer to the Petition to Cancel.

Petitioner will not be prejudiced by this motion because Respondent has acted promptly in responding to the Notice of Default, there has been no undue delay, and Petitioner has not incurred any costs or prejudice. *See Paolo's Associates Limited Partnership v. Bodo*, 21 USPQ2d 1899, 1903-04 (Comm'r 1990) (Prejudice not found even where Petitioner incurred costs of preparing and filing motion for default). Finally, Respondent submits that it has a meritorious defense to the Petitioner's allegation of abandonment in that Respondent has not abandoned its rights in and to the mark that is the subject of the challenged registration.

In light of the above, Respondent requests that the Notice of Default be set aside, that the Answer be entered, and the dates reset accordingly.

Respectfully submitted,

THE KINDER LAW GROUP, APC

By: _____



Brian P. Kinder, Esq.
Attorneys for Respondent
Exponents Insta Group USA, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that counsel for Petitioner consented to service by electronic means during a conversation on May 5, 2014; accordingly, services of the foregoing Respondent's Answer to Petition to Cancel is served upon Petitioner at the following email address:

Tsan Abrahamson, Esq.
Cobalt LLP
918 Parker Street, Building A21
Berkeley, CA 94710
trademarks@cobaltlaw.com

Executed on May 5, 2014, at Irvine, California.

//s/ _____
Brian P. Kinder